but the length of recurring periods of estate so established should be derived from the character of the letting, the purpose of the lease, the nature of property leased, the payment of the rent, the annual value of the land, in contrast with the rent paid, and other attendant facts proper to be considered in seeking the intention of the parties.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 119, et seq.]

**10. Landlord and Tenant (§ 115 (1)*)—Tenancy Construed to Be Tenancy from Month to Month and Not from Year to Year.**—Where a dwelling was leased at an agreed monthly rental of $25 per month, nothing being said as to the length of the term, the tenancy was from month to month, and not from year to year.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 119, et seq.]

Appeal from Circuit Court, Alexandria County.

Action by Katie Elliott against Edwin M. Birrell. Judgment for plaintiff in justice court was reversed on appeal to the circuit court, and judgment there rendered for defendant, from which plaintiff appeals. Reversed, and judgment entered for plaintiff.

*Charles T. Jesse,* of Rosslyn, for appellant.

*Robinson Moncure,* of Alexandria, for appellee.

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HARRISON et al. *v.* BARKSDALE, Judge.

March 30, 1920.

[102 S. E. 789.]

**1. Mandamus (§ 74 (5)*)—Duty to Declare Result of Election Is Ministerial Duty Which May Be Enforced.**—The duty of the judge of the circuit court to enter an order declaring a result of a special election for the adoption of the city manager plan of government under Acts 1914, p. 165, as amended by Acts 1916, p. 672, and Acts 1918, p. 402, is a public ministerial act which judge can be compelled to perform by mandamus.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 515, et seq.]

**2. Mandamus (§ 148*)—Individual Without Special Interest May Bring Suit to Enforce Public Duty.**—Mandamus will lie at the suit of a private individual having no special or pecuniary interest to enforce the performance of a public ministerial duty.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 540.]

**3. Mandamus (§ 51*)—Entry of Improper Order Declaring Election Result Does Not Prevent Mandamus to Compel Proper Order.**—The entry of improper order declaring the result of a city election

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*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

to adopt the city manager plan of government as provided by Acts 1914, p. 165, as amended by Acts 1916, p. 672, and Acts 1918, p. 402, is a nullity and does not prevent issuance of mandamus to compel the entry of a proper order.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 46, et seq.]

**4. Mandamus (§ 12*)—Declaration of Election Result Is Ministerial and May Be Corrected.**—That an order of the judge declaring the result of an election held for the purpose of voting on change of government to "city manager plan" is in the form of an order of court does not affect authority of the judge subsequently to enter a contrary order if the first was improper, since the order was not judicial, but a ministerial declaration.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 46, et seq.]

**5. Mandamus (§ 168 (3)*)—Evidence to Show Number of Voters At Preceding Election Held Admissible.**—In mandamus proceedings to compel the issuance of a proper order declaring the result of a special city election, certificates of the clerks and registrars showing the number of qualified electors at the last general election are competent and are material to show that the questions whether a majority of those voting or a majority of all entitled to vote was necessary was not a moot question.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 46, et seq.]

**6. Municipal Corporations (§ 48 (1)*)—"Majority Vote" At Special Election Is Majority of Those Voting.**—Under Const. § 117, as amended in 1912, and Acts 1914, p. 165, as amended by Acts 1916, p. 672 and Acts 1918, p. 402, authorizing the adoption of the city manager plan by a majority vote of the qualified electors at an election to be held therefor, a majority of those voting at a special election where only that question was submitted is sufficient, though they are not a majority of those qualified to vote.

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series, Majority. For other cases, see 5 Va.-W. Va. Enc. Eng. 24, et seq.]

**7. Municipal Corporations (§ 48 (1)*)—Statute Not Providing Otherwise, Majority of Those Voting Determines Result; "Majority Vote."**—A statute requiring a majority vote of the qualified electors to determine a question of change in city government which provides no means for determining the number qualified to vote at the election requires only a majority of the votes cast at the election unless an intention to require a majority of all those qualified to vote is clearly expressed.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Eng. 24, et seq.]

**8. Municipal Corporations (§ 48 (1)*)—Provisions of Constitution As to Majority Voting on Amendments Held Not Applicable to Vot-**

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

**ing on City Manager Plan.**—The fact that Const. §§ 196 and 197, requirng a majority vote to ratify a proposed amendment or to call a constitutional convention, expressly state it to be a majority of those "voting thereon," does not require section 117, authorizing adoption of the city manager plan of government by a majority vote without the qualifying statement, to be construed to require a majority of all qualified to vote.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Eng. 24, et seq.]

**9. Constitutional Law (§ 14*)—Lack of Uniformity of Language Does Not Show Different Intent.**—Lack of uniformity of language in various sections of the Constitutions relating to similar subjects does not indicate an intention to give different meanings to those provisions, especially where the later expression is in an amendment adopted at a different time by a different body of men.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 149, et seq.]

**10. Municipal Corporations (§ 48 (1)*)—Language of Statute Does Not Aid Construction of Constitutional Provision As to Voting on City Manager Plan.**—The fact that Code 1904, § 944a, cl. 39, and section 1038e, cl. 7, expressly require a majority of those voting on questions submitted does not require Const. § 117, as amended in 1912, requiring merely a majority of the qualified electors, to be construed to require a majority of all qualified to vote.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Eng. 24, et seq.]

**11. Municipal Corporations (§ 48 (1)*)—Differences in Language in Amending Statute Held to Express Same Meaning.**—The provisions of Acts 1914, p. 165, as amended by Acts 1916, p. 672, requiring a majority of the qualified voters authorized or qualified to vote, and the provision of the subsequent amendment thereof by Acts 1918, p. 402, requiring a majority vote of the qualified electors, which is practically the language of Const. § 117, as amended in 1912, authorizing the election, are merely different forms to express the same, and not a different, meaning.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Eng. 24, et seq.]

**12. Constitutional Law (§ 20*)—Construction By Legislature Not Controlling.**—The construction placed by the Legislature on a constitutional amendment, though entitled to great consideration, is not controlling on the courts, which are specially charged with the responsibility of construing the Constitution.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 150.]

*Harrison & Long, Don P. Halsey,* and *Volney E. Howard,* all of Lynchburg, for petitioners.

*Harper & Goodman,* of Lynchburg, for respondent.

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*For other cases see same topic and KEY-NUMBER in all Key-numbered Digests and Indexes.